

Remarks

By this amendment, independent claims 1, 24, 34, 57, 67-69 & 92 are amended to more particularly point out an distinctly claim the subject matter of the present invention. Specifically, Applicants herein delete the “strategic relationships” and amend the “business processes” language to recite one or more “business terms” associated with supply and demand of commodities associated with the public exchange. Applicants respectfully submit that as amended, this “business terms” recitation more clearly specifies that the concepts of the present invention relate to the terms of the business transaction being performed across the public exchange. These terms do not encompass any authentication and authorization processing that would be an underlying prerequisite of using the public exchange, but rather refer to the terms of the business transaction that occurs across the public exchange. No new matter is added to the application by any amendment presented. Claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78 & 80-101 remain pending.

Initially, claims 1, 24, 34-69 and 92 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In response, the “strategic relationships” language of claims 1, 24, 34, 57, 68 & 92 is deleted from the respective claims. The “business terms” recitation is believed to more particularly point out and distinctly claim any “strategic relationships” that may be established by a buyer entity and seller entity to facilitate the recited business transaction of the public exchange of one or more commodities. In view of these amendments, withdrawal of the claims objection thereto is respectfully requested.

Further, claims 34-68 are amended to delete “system” and substitute therefor “apparatus” as suggested by the Examiner in the Office Action of June 1, 2004. In view of these amendments, withdrawal of all 35 U.S.C. §112, second paragraph, rejection is respectfully requested.

With respect to the U.S.C. §101 rejection to claims 1-33, Applicants herein amend independent claims 1 & 24 to recite a computer-implemented method of facilitating the exchange of commodities wherein a buyer entity and a seller entity use an automated public business trading hub, as well as an automated trusted agent. Clearly as amended, independent claims 1 &

24 recite a technological basis for the recited methodologies, and as such, recite statutory subject matter. For this reason, reconsideration and withdrawal of the 35 U.S.C. §101 rejection of claims 1-33 is respectfully requested.

Further, Applicants note that the independent claims presented herewith recite a mechanism for facilitating the exchange of commodities. This mechanism is recited in method form, apparatus form, and computer program product form. Only the method formatted claims 1-33 presently stand rejected under 35 U.S.C. §101. Applicants respectfully submit that these method claims implement the particular processing recited in the apparatus formatted claims and the computer program formatted claims, which are not objected to under 35 U.S.C. §101. In all formats, the functionality of Applicants' invention is consistently recited in the claims presented, and for this additional reason, Applicants request withdrawal of the §101 rejection.

In the Office Action, claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78 and 80-101 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barnes et al. (U.S. Patent No. 5,970,475; hereinafter "Barnes") in view of Meltzer et al. (U.S. Patent No. 6,125,391; hereinafter "Meltzer"), and further in view of Fox et al. (U.S. Patent No. 6,561,581; hereinafter "Fox"), and still further in view of Haddad et al. (U.S. Patent Application No. US2003/0208433 A1; hereinafter "Haddad") or Johnson et al. (U.S. Patent No. 6,598,029; hereinafter "Johnson"). Applicants respectfully traverse this rejection to any extent deemed applicable to the claims presented herewith.

An "obviousness" determination requires an evaluation of whether the prior art taken as a whole would suggest the claimed invention taken as a whole to one of ordinary skill in the art. In evaluating claimed subject matter as a whole, the Federal Circuit has expressly mandated that functional claim language be considered in evaluating a claim relative to the prior art. Applicants respectfully submit that the application of these standards to the independent claims presented leads to the conclusion that the recited subject matter would not been obvious to one of ordinary skill in the art based on the applied patents.

Advantageously, applicants invention allows an automated trusted agent (performing one or more of the recited business functions of the independent claims) to add private relationships

(and hierarchical authority) to a public business trading hub, thereby allowing for example, selected mission critical aspects of a fulfillment process (e.g., confidential preferential pricing terms) to be shielded from certain entities while allowing non-critical information in the exchange of commodities to freely flow between entities via a public business trading hub.

Applicants independent claims recite, in part, performing one or more business functions in private (i.e., the automated trusted agent managing in private at least one other business function (i) through (iv)), and that the buyer (first) entity, seller (second) entity, and public business trading hub each are separate and independently owned. In addition, the automated trusted agent is electronically coupled to the public business trading hub, and is separate from the buyer entity, the seller entity and the public business trading hub. Thus, in applicants' invention, there are four separate participants in a public exchange of one or more commodities, wherein one or more aspects (i) - (iv) thereof are managed in private. These business aspects or functions include (i) one or more pricing terms; (ii) one or more contract terms; (iii) one or more business terms associated with supply and demand of commodities; and (iv) one or more product schedules, all associated with the public exchange of commodities between the buyer entity and seller entity using the public business trading hub. Applicants respectfully submit that the above-summarized features of the independently claimed invention would not have suggested or implied by Barnes, Meltzer and Fox, alone or in combination with Haddad or Johnson.

Barnes discloses an electronic procurement system that enables a purchasing organization to electronically transact for the purchase and supply of goods/services (see Abstract thereof). The electronic procurement system of Barnes enables corporate purchasers and suppliers to electronically transact for the purchase and supply of goods/services.

Initially, applicants note that the electronic procurement system in Barnes does not comprise a public business trading hub as the term is described in the present application and understood in the art. The electronic procurement system in Barnes is a captive system to a corporation, and is not a separate independently owned trading hub as recited in the independent claims presented. In applicants' environment, the buyer entity, the seller entity and the public business trading hub are each separate and independently owned participants in the public commodity exchange transaction. Barnes does not describe such an environment.

Additionally, within such as environment, there is no teaching, suggestion or implication in Barnes of a fourth participant referred to in applicants independent claims as an automated trusted agent which performs one or more of the specific business functions recited therein in private, notwithstanding the public nature of the exchange of commodities via the public business trading hub. Applicants note that the certificate authority described in Barnes does not comprise an automated trusted agent separate from the buyer entity, seller entity and public business trading hub as recited in the independent claims presented. Further, there is no suggestion or implication in Barnes of an automated trusted agent which performs certain one or more of the specified selected business functions in private during the public exchange of commodities using the public business trading hub. The certificate of authority in Barnes administers a security feature which authenticates buyers and suppliers, but which does not provide one or more of aspects (i) – (iv) associated with the public exchange of commodities as recited in the independent claims presented.

Aspects (i) – (iv) in Applicants' amended independent claims recite pricing terms, contract terms, business terms and product schedules, all of which relate to the public exchange of the one or more commodities. These terms and schedules comprise business functions and are a higher level of functions than the authentications discussed in connection with certificate of authority in Barnes. Applicants' invention presupposes a conventional form of authentication and authorization. The concepts recited in the independent claims presented are directed to the business terms and schedules associated with the public exchange of the one or more commodities using the public business trading hub. Thus, as amended, Applicants' independent claims each clearly distinguish Applicants' protocol from the authentication processing of Barnes.

The Office Action expressly recognizes that Barnes does not teach a bid network for commodities and a trading architecture such as recited by applicants. To address this, Meltzer is combined with Barnes.

Meltzer describes an infrastructure for connecting businesses with customers, suppliers and trading partners. Under this infrastructure, companies exchange information using predefined machine-readable documents based on, for example, XML (eXtensible Markup

Language) and described by Business Interface Definitions (BIDs) (see column 2, lines 32-54). Applicants respectfully submit that a careful read of Meltzer fails to uncover any suggestion or implication of a technique for addressing a privacy concern with the public exchange of one or more commodities using a public business trading hub.

Specifically, a careful reading of Meltzer fails to uncover or suggest any implication of an automated trusted agent, which is separate from a buyer entity, a seller entity, and a public business trading hub, let alone such an agent by which one or more business functions associated with the public exchange are performed in private (i.e., the business functions set forth as (i) – (iv)).

Based on the foregoing, applicants respectfully submit that Meltzer, like Barnes, fails to teach or suggest applicants recited environment, as well as the performing of the specific business functions identified by an automated trusted agent. Further, applicants respectfully submit that Fox does not overcome the above-noted deficiencies of Barnes and Meltzer, as applied to the independent claims presented.

Fox describes an electronic commerce system which facilitates secure electronic commerce transactions. The disclosure of Fox is directed to digital certificates and the encryption of documents which ensures that only the intended recipient can decrypt them.

Applicants respectfully submit that a careful reading of Fox fails to uncover any teaching, suggestion or implication of an automated trusted agent which facilitates the public exchange of commodities within a business public trading hub such as recited by applicants. Further, a careful reading of Fox fails to uncover any suggestion or implication of the particular business functions managed in private by the automated trusted agent in applicants' invention. Specifically, applicants' automated trusted agent manages in private at least of one of: (i) one or more pricing terms; (ii) one or more contract terms; (iii) one or more business terms associated with supply and demand of commodities; and (iv) one or more product schedules, all associated with the public exchange of one or more commodities between a buying entity and a selling entity using the public business trading hub. The digital certificates and the use thereof in Fox would not have suggested to one of ordinary skill in the art managing in private the particular

business functions recited by applicants in the independent claims in association with a public exchange of commodities through a public business trading hub.

The Office Action further recognizes that Barnes, Meltzer and Fox do not disclose a public business trading hub for the public exchange of one or more commodities, wherein the buyer entity, seller entity, and public business trading hub are each separate and independently owned. The Office Action alleges that the teachings of Haddad or Johnson could be combined with Barnes, Meltzer and Fox to address this deficiency. This assertion is respectfully traversed.

As noted above, and as acknowledged in the Office Action, Barnes, Meltzer and Fox each fail to teach or suggest the existence of a public business trading hub for the public exchange of one or more commodities. To the extent relevant, these patents describe an electronic procurement system that is captive to a particular corporation, and is not a separately owned public trading hub. Because the Barnes, Meltzer and Fox systems are private, they comprise a one to many approach for implementing a business transaction. This approach is contrasted with Applicants' recited environment wherein a public business trading hub is employed for the public exchange of one or more commodities. Applicants' specification sets forth how to implement the exchange of commodities using a public business trading hub in combination with an automated trusted agent that is separate from the buyer entity, seller entity and public business trading hub, and wherein details of one or more private business functions performed by the automated trusted agent are unknown to other entities accessing the public business trading hub. These private business functions include one or more of pricing terms, contract terms, business terms, and product schedules associated with the public exchange of one or more commodities. Thus, Applicants' recited invention solves a need in the art that is simply not addressed by Barnes, Meltzer, Fox, Haddad or Johnson.

Applicants respectfully traverse the combination proposed in the Office Action. Noticeably absent from the Office Action is any express teaching, suggestion or incentive identified in the art for making the proposed combination. The only justification given for the combination of Haddad with Barnes, Meltzer and Fox is that Haddad teaches "trading entity requirements", while the only justification for combining Johnson with Barnes, Meltzer and Fox is that it "teaches competition requirements for trading." Without acquiescing to these

characterizations of the Haddad and Johnson patents, Applicants respectfully submit that these justifications do not identify an adequate teaching, suggestion or incentive in the art itself to combine the references as proposed in the Office Action, but rather simply allege inherent benefits in using a public business trading hub for the public exchange of one or more commodities in a business process such as recited by Applicants in the independent claims presented. Applicants respectfully submit that the only suggestion or incentive for combining the four or five patent teachings is presented in Applicants' own disclosure, which, as is well known, cannot be used as a reference against them.


The consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the claimed process should be carried out and would have a reasonable likelihood of success, viewed in light of the prior art. Both the suggestion and expectation of success must be found in the prior art, not in Applicants' disclosure. In this case, the basis for the combination is believed drawn from Applicants' own disclosure, in violation of this principle.

Moreover, none of the applied art, including Haddad and Johnson, teach the existence of an automated trusted agent (performing one or more of the recited business functions of the independent claims) to add private relationships (and hierarchical authority) to a public business trading hub, thereby allowing, for example, selected mission critical aspects of a fulfillment process (e.g., confidential preferential pricing terms) to be shielded from certain entities while allowing non-critical information or terms in the exchange of commodities to freely flow between entities via the automated public business trading hub.

For all the above reasons, Applicants respectfully submit that independent claims 1, 24, 34, 57, 67-69 & 92 are patentable over the combinations cited in the Office Action. The dependent claims are believed allowable for the same reasons as the independent claims, as well as for their own additional characterizations.

Should the Examiner wish to discuss this case with Applicants' attorney, the Examiner is invited to contact Applicants' representative at the below-listed number.

Respectfully submitted,


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